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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,715	03/08/2002	Steven J. Catani	15117.0091	7318
23767	7590	11/20/2003		
PRESTON GATES ELLIS & ROUVELAS MEEDS LLP 1735 NEW YORK AVENUE, NW, SUITE 500 WASHINGTON, DC 20006				
			EXAMINER KRISHNAN, GANAPATHY	
			ART UNIT 1623	PAPER NUMBER

DATE MAILED: 11/20/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/092,715		Applicant(s) CATANI ET AL.	
	Examiner Ganapathy Krishnan		Art Unit 1623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on ____.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1 and 3-48 is/are pending in the application.

 4a) Of the above claim(s) ____ is/are withdrawn from consideration.

5) ☒ Claim(s) 13-48 is/are allowed.

6) ☒ Claim(s) 1-4, 6 and 11 is/are rejected.

7) ☒ Claim(s) 5, 7-10 and 12 is/are objected to.

8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

The Amendment A (paper 7) filed September 5, 2003 has been received, entered into the record and carefully considered. The following information provided in the amendment affects the instant application:

1. Claims 2 and 49-54 have been cancelled.
2. Claims 1, 3, 11, 15, 25, 26, 34 and 35 have been amended.
3. Remarks drawn to claim objections, rejections under 35 U.S.C. 112 second paragraph, 102(e) and 102(b).

Claims 1 and 3-48 are pending.

Claim Objections

The objection to claim 35 has been overcome by amendment.

Claim Rejections - 35 USC § 112

The rejections of claims 3, 14, 15, 24-26 and 34 under 35 U.S.C. 112 second paragraph have been overcome by amendments.

Claim Rejections - 35 USC § 102

Claims 1-4, 6 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Navia et al (US 5498709). The rejection is being maintained for reasons of record.

Response to Arguments

Applicants' arguments have been considered but are not found to be persuasive.

Applicants argue that the art does not teach second portion of the impurities are not retained in the first solvent. Furthermore applicants that toluene removes non-polar impurities and 2-butanone will extract polar impurities along with the sucralose and thus there is no teaching of leaving a second impurity in the first solvent.

In general, no extraction process completely extracts the product or all of the impurities. Some amount of product or impurities is always left behind. Navia et al's process teaches extraction with toluene (second solvent) to remove non-polar impurities. This extraction step will leave behind some non-polar impurities in the first solvent along with the second portion of impurities (polar) and sucralose. The subsequent extraction of the resulting solution containing some non-polar impurities, polar impurities and sucralose, with the second solvent (2-butanone) will extract the sucralose and polar impurities but would still leave behind some polar impurities. Thus the result is that after the extraction of the original aqueous solution with toluene and 2-butanone, there will still be some non-polar as well as polar impurities left behind. In other words, there will be some second impurities in the first solvent. It is for this reason that the instant claims 1-4, 6 and 11 still read on the prior art and stand rejected.

Conclusion

1. Claims 1-4, 6 and 11 are rejected.

2. Claims 5, 7-10 and 12 drawn to process steps, solvents and solvent ratios that are not taught in the prior art of record, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

3. Claims 13-48 drawn to method of removing impurities from a composition comprising a solution of sucralose and impurities using a non-aromatic organic solvent to remove impurities followed by extraction with an organic solvent to effect transfer of sucralose in the organic solvent with retention of impurities in the aqueous phase using ethyl acetate and water as the specific solvents in specified ratios, performing combinations of the said process and method for removal of tetrachlorosucrose compounds from a composition comprising sucralose and chlorinated derivatives is not taught or fairly suggested in the prior art of record. Claims 13-48 are allowable.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ganapathy Krishnan whose telephone number is 703-305-4837. The examiner can normally be reached on 8.30am-5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 703-308-4624. The fax phone number for the organization where this application or proceeding is assigned is 703-305-3014.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

GK


SAMUEL BARTS
PRIMARY EXAMINER
GROUP 1800